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**To:** ["John McCoy"](#)  
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**Subject:** RE: West Fertilizer, West Texas - Response fr J. McCoy , Claim MCC00540312  
**Date:** Tuesday, August 06, 2013 7:02:24 PM  
**Attachments:** [image002.png](#)

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John,

While we received access to the site, we have continually requested more information about the site. In particular, everyone has requested to see a site map or layout which you contend burned up in the fire/explosion. We have requested photos showing where things were specifically



9424457

located. Nothing has been provided. Earlier this week we were told there may have been a fire at the plant, earlier in the day, on the date of the explosion, which your client's employees may have extinguished on their own. If true, this has not been disclosed and I have no idea where the fire was located, so that we can inspect that particular area of interest. If you insist we wait until discovery to learn these alleged facts then I believe it only fair the site be left as is until critical factual information is obtained from your client in order better map out any additional site observations and testing that may be required.

I would like to work this matter out by agreement but am prepared to seek injunctive relief if you insist on this premature salvage job.



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**Sent:** Tuesday, August 06, 2013 2:15 PM

**To:** Marc Young

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**Subject:** RE: West Fertilizer, West Texas - Response fr J. McCoy , Claim MCC00540312

Mark,

Your team, along with everyone else, was given full access to the site. That was explained in my letter to Mr. Klick earlier today. In essence, this is not the site that existed post-accident.

When discovery is permitted by the court you will have the opportunity to speak with my witnesses and conduct written discovery. From that you can get any information you now claim you need and do not have. That is the normal order of things.

That investigation does not require access to the site going forward. Your photos, chemical samples and artifacts are what you can reference.

The site inspection allowed your consultants to retain anything that you thought might possibly be relevant to the case, as well as take any photos and measurements you might want.

And for what it is worth the costs related to maintenance of the site has been very substantial, exceeding hundreds of thousands of dollars. The site is subject to remediation, Stop Sale Orders from the Texas State Chemist, EPA and TQEQ oversight and my view that this needs to be cleaned up now out of respect for the City of West.

In addition to security we have to remove salvage of about 400 tons of stuff on off-site property we don't own. It was put there by ATF. We are renting that property but the owners want the stuff removed asap.

On site, each time it rains there is a cost to collect that water in holding tanks. At some point that needs to be remediated. There are tens of thousands of gallons of water that needs to be remediated already.

For each inspection we have security (Paladin), on-site manager (Crane Engineering), air quality monitoring (Lauderdale Environmental) and supply of heavy equipment, trailers, golf carts (Grones).

If you wish to discuss this with me, please call. But I am still plan to release the site.

Of course, anyone who disagrees with my decision is free to seek court intervention.

John

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**Sent:** Tuesday, August 06, 2013 1:05 PM

**To:** John McCoy

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**Subject:** RE: West Fertilizer, West Texas - Response fr J. McCoy

John,

I just returned from being out of state for 10 days and saw your email. In order to conduct a meaningful and complete site investigation at the West fertilizer plant site, additional time and access to the site are necessary. The planned release of the site to salvage on Monday, August 5, 2013 would prevent and jeopardize my experts' ability to conduct such an investigation. We have not been provided any prior history of the plant's operations and need to know of any fires that have occurred at the site prior to the explosion. By fire, I mean any event that required the use of water or a fire extinguisher to bring it under control. We also need to know whether any of the earlier fires required or involved fire fighting equipment outside of the plant or were able to be contained by the employees inside of the plant as well as the location of each fire. This is especially the case if there was a fire on site earlier in the day on August 5 before the plant was shut down and the employees left. From this information, an assessment can be made and more detailed evaluations of the plant site can be drawn up and undertaken to try and better understand all of the variables that have impacted the plant and their locations.

The reason for such information and a more in-depth site investigation is based on the fact that such plant operations are susceptible to fires in and around the various operations, including the grain elevators and conveyer systems that transfer the grains and possibly other materials within in the plant. The owner and/or supervisory personnel can provide at least a description and sketch of the operations of the plant and a listing of the equipment present at the time of the fire since the claim is made that all engineering drawings have been lost in the event. Any fires that occurred before the time of the fire and explosion on April 17, 2013 around 7:50 P.M. CDT should be made available. With this information one can then develop a more detailed and focused evaluation and investigation of the site, including the areas of the earlier fires.



I understand the extensive damage to the site and the desire to clear the surrounding fields of debris from the plant, but I do not understand the rush for salvage of the entire plant area. This only serves to reduce the opportunity to more fully understand what caused this incident. Other than the cost for a guard at the site, the cost is minimal to keep the plant site available for further investigation. The time for the additional investigation work should not be excessive but will likely take several months based on the need to first gather information and then prepare a plan for a more in-depth investigation of the site.



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**Subject:** West Fertilizer, West Texas - Response fr J. McCoy

All:

Attached is the response from Mr. McCoy to Mr. Klick's objection of August 2, 2013.

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